Court No. 2

HIGH COURT OF UTTARANCHAL AT NAINITAL.

First Appeal No. 689 of 2001
Old No. 242/1991

State of U.P. … **Appellant.**

Versus

Smt. Uma Rani, W/O Sri Ashok Kumar,
R/O 10 Civil Line Pargana and Tahsil
Roorkee, Distt. Haridwar. … **Respondents.**

Learned Standing Counsel for the appellant.

Hon. P.C. Verma, J.
Hon. B.S. Verma, J.

This appeal arises out of the judgment and order dated 20-02-1991, passed by the then Additional District Judge, Roorkee ***(in short the Judge)*** in Land Acquisition Reference Case No. 208 of 1989, Smt. Uma Rani Vs. Collector Saharanpur, whereby the learned Judge partly allowed the reference and awarded compensation @ Rs. 16/- per Sq.ft. in respect of land acquired measuring 12 Binswa (0-12-0) along with solatium @ 30% and the interest @ 9% as mentioned in the impugned order.

Brief facts are that the State Government proposed to acquire land for modernization of upper Ganga canal and construction of parallel Ganga Nahar in village Roorkee, Tahsil Roorkee. The Notification under Section 4 of the Land Acquisition Act was issued on 30-8-1986 and the notification under Section 6 was issued on 3-11-1986 and possession of the total land acquired, i.e. 133-6-2, was taken on 2-1-1988. The land of the respondent-claimant related to Khasara No. 703 area 12 Biswa. The Special Land Acquisition Officer considering the potentiality, location and market value of the land determined the compensation @ Rs. 16/- per Sq.Ft. and deducted 25% therefrom on the ground that the land in question was low level land approximately 12 ft deep from the main road, thereby the Special Land Acquisition Officer awarded compensation of Rs. 2,62,103-55 P. for the total land under

acquisition @ 12/- per Sq. Ft. which included amounts of solaltium and interest according to Rules.

Aggrieved by the said award, reference under Section 18 of the Act was made on the ground that the land fell within the limits of Roorkee Municipality and was fit for construction of residential colony and the same is just ½ km. Away from the main City Civil Lines. According to the claimant, the market value of the land was not less than Rs. 50/- per sq.ft. and 25% deduction by the S.L.A.O. was not justified.

The Collector filed written statement alleging therein that the land under acquisition was agricultural land and was 12 ft deep from the level of the road towards slope; that no building construction was near the land; that the land was flood-affected with possibility of soil-erosion and that unless dam is constructed, the land was not safe.

The learned Judge framed necessary issues. The claimant adduced both oral and documentary evidence. Ultimately, the Reference Court determined the compensation @ 16/- per sq. ft. and held that the deduction of 25% from this rate by the Special Land Acquisition Officer was not proper. Accordingly, the impugned judgment and order was passed enhancing the rate from Rs. 12/- per sq.ft. to Rs. 16/- per sq.ft. Aggrieved, the State has come up in appeal.

It was contended on behalf of the appellant that no reasons were given by the learned Judge for disbelieving the observations made by the Special Land Acquisition Officer; that the land was at a distant place from the Abadi and that a vast piece of land was acquired, therefore, the award given by the Special Land Acquisition Officer was proper and adequate.

We have considered the submissions made the learned Standing Counsel and have gone through the entire material on

record. The only point for determination in this appeal is whether the market value of the land @ 16/- per sq. ft. is just and not.

The claimant Uma Rani has stated before the reference court that the land acquired falls in Pathanpura near Abadi and is ½ km. Away from the Civil Lines. She has further said that the land was fit for construction of residential colony and that near the acquired land, there is facility of electricity and water. She was cross-examined and it was suggested to her that the land is 15ft. deep from Haridwar road, but she stated that the land is on the higher side of the level of the river. The claimant filed two sale-deeds before the Special Land Acquisition Officer. One is dated 8-1-1986 in which land was sold @ Rs. 40/- per sq.ft. at Civil Lines and the other is dated 31-3-1986 in which land was lold @ Rs. 20/- pe sq. ft. in the abadi area of Pathanpura. In both the sale deeds, small piece of land was sold. From the site of land, the telephone office, Municipality Office and Bazar are situated at a distance of about 1 km. The learned reference court considered all these aspect in its judgment. The claimant herself filed sale deed dated 31-3-1986, which pertains to the abadi area of Pathanpura. By the said sale-deed, land measuring 16 sq.ft. was sold @ Rs. 20/- sq.ft. Thus, from the evidence adduced by the claimant herself, it can be safely taken that the rate of Rs. 16/- per sq.ft. determined by the Reference Court for a vast piece of land under acquisition is just and proper. We do not see any reason to interfere with the impugned judgment and order passed by the Reference Court.

In the result, the appeal has no force and is liable to be dismissed.

The appeal is dismissed. The judgment and order dated 20-2-1991 is affirmed. No order as to costs.

09-08-2004 **(B.S. Verma, J.)** **(P.C. Verma, J.)**
RCP